

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

TRACEY A. HARDY,

Petitioner,

v.

WARDEN,

Respondent.

CAUSE NO. 3:22-CV-64 DRL-MGG

OPINION AND ORDER

Tracey A. Hardy, a prisoner proceeding without a lawyer, filed a habeas corpus petition challenging his 2015 conviction in Elkhart County for dealing in cocaine. (ECF 1.) Under Rule 4 of the Rules Governing Section 2254 Cases, the court must review the petition and dismiss it “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief[.]”

Mr. Hardy labels his petition as “successive,” and public records confirm that he previously filed a federal habeas petition challenging the same conviction he is challenging here. *Hardy v. Warden*, No. 3:18-CV-640-JD-MGG (N.D. Ind. closed July 9, 2020). The court denied his petition, concluding that his claims were procedurally defaulted, not cognizable on federal habeas relief, or otherwise without merit. *Id.*, ECF 43. Mr. Hardy appealed, but the court of appeals denied his request for a certificate of appealability. *Id.*, ECF 61.

Under the Anti-Terrorism and Effective Death Penalty Act (AEDPA), Mr. Hardy cannot proceed with a new habeas petition challenging this same conviction unless he

obtains prior authorization from the court of appeals. 28 U.S.C. § 2244(b)(3)(A). There is no indication from his filing that he has obtained such authorization. Because this court lacks jurisdiction to hear an unauthorized successive petition, the petition must be dismissed. 28 U.S.C. § 2244(a); *Burton v. Stewart*, 549 U.S. 147, 157 (2007).

For these reasons, the petition (ECF 1) is DISMISSED for lack of jurisdiction. The clerk is DIRECTED to close this case.

SO ORDERED.

January 26, 2022

s/ Damon R. Leichty
Judge, United States District Court